SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.280 OF 2006

Commissioner of Central Excise ..Appellant.

V/s.

M/s.Bunty Foods (I) Pvt. Ltd. ..Respondent.

Mr.K.R.Chaudhari with D.A,Dubey & H.P.Chaturvedi for appellant.

Mr.H.C.Daruwala i/b. Bhaishankar Kango & Girdharilal for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 1ST NOVEMBER, 2007.

P.C. :-

. The respondent herein were in appeal before the CESTAT. The CESTAT in para 4 after considering the facts on record, recorded a finding of fact based on the statement of the Director of Bunty (I) Pvt.Ltd. and the records which were maintained for the period from 1/4/1996 that the broken biscuits were recycled and used in the manufacture of fresh biscuits and as such, no duty arose on the broken biscuits as they were captively consumed and covered by the benefit of exemption for captive consumption under notification no.67/95. There was some dispute as to whether at the relevant period, there was a notification exempting the

product from excise duty in the event of captive consumption. The counsel for the revenue agrees that there was a revenue notification at the time, if otherwise on facts the respondent are able to establish that they used it for captive consumption.

2. The only contention urged on behalf of the revenue is that the records were not maintained. Though technically the respondents were required to maintain a register, yet considering the finding of fact based on materials and statement available that the broken biscuits were used as captive consumption, the notification would apply. It is purely a finding of fact. We find no question of law as formulated would arise. Appeal is accordingly disposed of.

(F.I.REBELLO, J.)

(J.P.DEVADHAR, J.)